

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

IN RE: HORNBECK OFFSHORE
TRANSPORTATION

: DOCKET NO. 10-0007

: JUDGE TRIMBLE

: MAGISTRATE JUDGE KAY

MEMORANDUM RULING

Before the court is a "Motion for New Trial Under Federal Rule 59" (R. #85) wherein, claimants, S&M Fisheries and Acadia Insurance Company move for a new trial. Specifically, claimants request a judgment disallowing any award of cost of the bond premium (or vacating this court's prior judgment), or alternatively, reducing the award to \$2,172.62.

Claimants maintain that it is improper for this court to award any costs for a bond premium.¹ In our prior ruling, we held that although the initial cost of initiating a limitation proceeding is not taxable to claimants, the court could tax costs "occasioned by the contest" when a claimant "contest[s] the right and loses."² The court finds no basis for reversing this ruling.

Alternatively, claimants seek to reduce the award by reducing the number of days used to

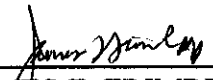
¹ R. #83.

² Id. at pp. 5-6 citing Martin Marine Transp. Co.v. Jakobson & Peterson, Inc., 135 F.2d 325 (2d Cir. 1943).

calculate the costs,³ and also to allocate a portion of the costs to the other wrongful death claimants.⁴ As to the date used to calculate the daily bond premium rate, claimants assert that it filed the motion to dismiss with prejudice on July 1, 2010 and the court granted said motion on July 6, 2010 dismissing these claimants with prejudice. The prior ruling calculated the number of days up until September 16, 2010, the day the court rendered the exoneration decree in favor of Hornbeck.⁵ The court finds that claimant's argument is well taken and concludes that the costs should have been calculated from March 18, 2010⁶ until the motion to dismiss was filed on July 1, 2010.

Claimants further maintain that the bond premium costs should be apportioned equally between petitioner, the wrongful death claimants and the instant claimants. The court disagrees with claimants and find that they are liable in solido. Accordingly, the court will grant the motion for new trial, modify its prior award and reduce the costs to \$11,219.25.⁷

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this 1st day of ~~November~~^{December}, 2010.



JAMES T. TRIMBLE, JR.
UNITED STATES DISTRICT JUDGE

³ The costs were imposed at a daily rate of \$106.85.

⁴ The widows of the two deceased crewmen. These claimants filed voluntary dismissals on July 23, 2010.

⁵ The decree was issued pursuant to a motion for exoneration (R. #68).

⁶ The date the second year bond premium commenced.

⁷ 105 days X \$106.85 = 11,219.25.